U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

FILE: [redacted] Office: New York Date: MAR - 7 2000

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957

Public Copy

IN BEHALF OF APPLICANT:

[redacted]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

For Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York, and is now before the Associate Commissioner, Examinations, on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Liberia who is seeking to adjust his status to that of a lawful permanent resident under section 13 of the Act of September 11, 1957, as an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(G)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(G)(ii).

The district director denied the application for adjustment of status after determining that the applicant failed to establish that there are compelling reasons why the applicant was unable to return to Liberia.

On appeal, counsel asserts that the applicant and his family have shown compelling reasons that demonstrate both that the applicant is unable to return to Liberia, the country represented by the government which accredited the applicant, and that adjustment of the applicant's status to permanent resident would be in the national interest. Counsel further asserts that the applicant is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security.

Section 13 of the Act of September 11, 1957, as amended on December 29, 1981, by Pub. L. 97-116, 95 Stat. 1161, provides in pertinent part:

> (a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.
>
> (b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action

> would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date [on which] the order of the Attorney General approving the application for adjustment of status is made.

Pursuant to 8 C.F.R. 245.3, eligibility for adjustment of status under section 13 of the Act is limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government which accredited the applicant, and that adjustment of the applicant's status to that of an alien lawfully admitted to permanent residence would be in the national interest. Aliens whose duties were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under section 13.

The statute requires that a section 13 applicant must have failed to maintain his or her status under the specified A or G nonimmigrant class. An A or G visa holder is lawfully admitted to the United States and is deemed to be maintaining lawful status so long as the Secretary of State recognizes him or her as being entitled to such status. Termination of recognition of an A or G visa holder's status is committed to the discretion of the Department of State. 22 C.F.R. 41.22(f).

The record shows that the applicant first entered the United States as a nonimmigrant student on August 11, 1973. He was subsequently employed by the Liberian Missions to the United Nations in April 1975, and his status was changed to that of a G-1 nonimmigrant official and employee of a foreign government. He last entered the United States as a G-1 on May 15, 1988. The applicant held the position of [redacted] to the United Nations in New York. The applicant filed his application for permanent residence under section 13 on March 27, 1992.

To establish compelling reasons why he is unable to return to his home country, the applicant states in a self-affidavit:

> A civil war began in my country in December 1989, thousands and thousands of innocent people, mostly unarmed civilians, have been killed and many more wounded. In 1989, my father and many relatives were killed in the terrible Liberia civil war.

[redacted]

> On July 11, 1990, the U.S. Embassy in Monrovia filed a formal complaint with the Liberian Government about the abusive and undisciplined behavior of its troops toward unarmed civilians.
>
> After the overthrow of the democratic Liberian government, I left position at the Mission. I was forced to do this due to the political influence exerted by the opposition and Government disputes over power exercise in Liberia.
>
> In 1991, past INS Commissioner Gene McNary, directed Service field officers to "view sympathetically" on a case-by-case basis certain applications submitted by nationals of Liberia currently in the U.S. The Commissioner's cable was issued in response to the widespread lawlessness that prevails in Liberia, and the continued risk that all of Liberia's inhabitant's face. It provides a strong argument, favoring my application for adjustment of status.
>
> On Nov. 13, 1992, with the civil war in Liberia, approaching its fourth year, and threatening to engulf other nations, neighboring west African countries launched a major military offensive against rebel forces.
>
> But the main rebel group, the National Patriotic Front led by Charles Taylor, vowed to battle any foreign military intervention in the conflict. The rebels, sustained by Libyan-supplied weapons, have responded with punishing air and ground attacks on residential neighborhoods, terrorizing Monrovia's civilian population.

The petitioner further states that he, his wife, and children have been living in the United States for more than 21 years, that his son came here at the age of six, they are hard-working, law-abiding, respected members of their community, they have never committed nor have they ever been convicted of any criminal acts anywhere, and that they have paid their taxes for every year that they have been in the United States. He continues:

> If we were to return to Liberia our lives and freedom as well as the life and freedom of our American born daughter would be in grave danger.
>
> In view of the breakdown of government control and the widespread violence affecting all parts of the country, we would not return to Liberia for fear of being killed.

> To this day, the government in what was once Liberia, cannot protect us from the violence perpetrated by the rebels. Liberia has been plunged into a full-scale ethnic communal war.
>
> My father and the rest of my family have been killed or are missing. Given the shattered state of the country's economy, couple[d] with the terrible violence and destruction, the prospect of us finding adequate employment is virtually nil. Our return would therefore render us and our children utterly destitute.

On July 30, 1992, a consultation was made with the United States Department of State (DOS) on Service Form I-88. The applicant's file, along with a transcript of his eligibility interview was also forwarded to the DOS for review. On April 24, 1995, the DOS found that the applicant has not provided sufficient evidence to establish that there are compelling reasons why he and his family are unable to return to their homeland.

On appeal, counsel submits a written statement similar to the applicant's self-affidavit as enumerated above. Statements alone, without supporting evidence, are insufficient to establish eligibility. The applicant has furnished no additional evidence with the application or on appeal to corroborate his claim and to overcome the findings of the Department of State and the district director.

It is, therefore, concluded that the applicant has not shown compelling reasons demonstrating that he is unable to return to the country represented by the government which accredited him. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.